

01 August 2023

Kaukab Stewart MSP
Convener, Equalities, Human Rights and Civil Justice Committee
The Scottish Parliament
Edinburgh
EH99 1SP

By email: EHRCJ.committee@parliament.scot

Dear Kaukab

Re: Petition PE1787 on The Use of Makaton Sign Language in the Legal System

My officers shared with me your letter of 2 June 2023, asking for information from COSLA about

- what Local Authorities are doing around the use of an Appropriate Adult in situations where a person needs support to communicate with the police
- the number of requests Appropriate Adult Services have received for the provision of Makaton interpreters over the past 18 months.

I am pleased to give you some more information on the points you raise.

The role of an Appropriate Adult is to support people to both understand and to be understood during police investigations and during interaction with other investigative bodies. They play a vital role in supporting equity of access to the justice system and the upholding of human rights. They provide communication support to vulnerable victims, witnesses, suspects and accused people, aged 16 and over, during police investigations - helping people to understand what is happening, and to be understood.

The Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019 - which came into force on 10 January 2020 - confer on Local Authorities the duties to deliver Appropriate Adult services. There are currently 21 Appropriate Adult services across Scotland, representing all 32 Local Authorities. There are different models of delivery across Scotland including direct provision, partnership arrangements and contracts with third sector organisations. All services are available 24 hours a day.

The majority of referrals are received from Police Scotland. However, the Criminal Justice (Scotland) Act 2016 widened access to Border Force, British Transport Police, Police Investigations & Review Commissioner, Civic Nuclear Constabulary, Her Majesty's Revenues & Customs, Ministry of Defence and National Crime Agency. Although not a statutory duty, a small number of services also provide Appropriate Adult support to people during Court processes.

Appropriate Adults come from a variety of backgrounds, are trained to a national standard, and have experience of working with people with communication difficulties. They can be called to support people with a range of communication support needs, for example, due to mental health challenges, learning disability, personality disorder and/or other factors including brain injury, cognitive impairment and neurodiversity such as autism and ADHD.

Their role is to:

- identify how a person's communication support needs may impact their understanding of proceedings
- raise any concerns about the person's communication needs or welfare with the police or other relevant organisations
- ensure, as far as possible, the person understands their rights and any questions asked of them
- always remain impartial
- have an awareness of police procedures
- where applicable, ensure, as far as possible, that the person understands a procedure so they can decide whether to consent or not
- are not protected by confidentiality. This means anything they become aware of must be shared with the relevant authorities including concerns of harm
- are not qualified to provide a formal assessment of an individual's health or communications issues.

They should not:

- provide legal advice or tell the person how or whether to answer questions
- object to, or intervene in, any questions being asked by police other than to facilitate communication
- be an employee of Police Scotland or other referring agencies
- be a family member
- have a professional or personal relationship with the person
- be used to assist with a victim/witness and the accused in the same case
- be left alone with the person or their friends and family members
- be present during the discussion between the solicitor and the person.

As a result of an agreement to work with the Scottish Government to implement the statutory duty, COSLA has hosted the National Appropriate Adult Co-ordinator since September 2020 and the Appropriate Adults Policy & Participation Officer since April 2022. The aims of the national project are to:

- Promote consistency, quality and sustainability in relation to Appropriate Adult provision across Scotland
- Implement a national Appropriate Adult training framework
- Promote awareness of the role of the Appropriate Adult across different sectors

- Contribute to the implementation of a quality assessment framework for local authorities in relation to Appropriate Adult services
- Contribute to the development and implementation of policy initiatives relating to Appropriate Adults and communication support in the criminal justice system
- Deliver on specific and thematic pieces of work including national Appropriate Adult reports, research and guidance
- Support the Appropriate Adults National Oversight Group in its role overseeing the implementation of the statutory service

COSLA does not hold data on the number of requests Appropriate Adult Services have received for the provision of Makaton interpreters and local mechanisms to collect data vary across services in different areas. As part of our ongoing support to implement the statutory service, we are in the early stages of developing a system for national data collection, in collaboration with the Scottish Government and other stakeholders.

If you would like more information about any of the points noted above or if we can be of any further assistance, please do not hesitate to let myself or my officers know.

Yours sincerely

Cllr Maureen Chalmers
COSLA Community Wellbeing Spokesperson